

any other remedy, including, but not limited to, criminal remedies or actions for damages in favor of CCC, or the United States as may be permitted by law.

(d) Absent a scheme or device to defeat the purposes of BCAP, when an owner loses control of BCAP acreage enrolled under subpart C of this part due to foreclosure and the new owner chooses not to continue the contract in accordance with §1450.215 refunds will not be required from any participant on the contract to the extent that the Deputy Administrator determines that forgiving such repayment is appropriate in order to provide fair and equitable treatment.

Subpart B—Matching Payments

§ 1450.100 General.

(a) A person or legal entity with the right to collect or harvest eligible material for the sale and delivery of such eligible material to a qualified biomass conversion facility, may be eligible for payment under the provisions of this subpart.

(b) [Reserved]

§ 1450.101 Qualified biomass conversion facility.

(a) To be considered a qualified biomass conversion facility, a biomass conversion facility must enter into an agreement with CCC and must:

(1) Meet all applicable regulatory and permitting requirements by applicable Federal, State, or local authorities;

(2) Agree in writing to:

(i) Maintain accurate records of all eligible material purchases and related documents regardless of whether matching payments will be sought by the seller; and

(ii) Make available at one place and at all reasonable times for examination by representatives of USDA, all books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to BCAP for not less than 3 years after the date that eligible material was delivered to the qualified biomass conversion facility;

(iii) Clearly indicate the actual tonnage delivered on the scale ticket or

equivalent to be provided to the eligible material owner;

(iv) Calculate a total dry ton weight equivalent of the actual tonnage delivered and provide that measurement to the eligible material owner;

(v) Use commercial weight scales that are certified for accuracy by applicable State or local authorities and accurate moisture measurement equipment to determine the dry ton weight equivalent of actual tonnage delivered;

(vi) Pay fair market value for eligible material regardless of whether the seller has applied for or receives a matching payment authorized by this subpart.

(b) For a qualified biomass conversion facility, CCC can:

(1) Periodically inform the public that payments may be available for deliveries of eligible material to such qualified biomass conversion facility;

(2) Maintain a listing of qualified biomass conversion facilities for general public access and distribution that may include general information about the facility and its eligible material needs; and

(3) Suspend, terminate, or take other actions as appropriate when CCC determines a qualified biomass conversion facility fails to comply with the agreement.

§ 1450.102 Eligible material owner.

(a) In order to be eligible for a payment under this subpart, a person or legal entity must:

(1) Be a producer of an eligible crop that is produced on contract acreage authorized by subpart C of this part; or

(2) Have the right to collect or harvest eligible material and such person may only receive payment if the risk of loss for the material transferred to that person occurred prior to the time the payment is made that will be used to determine the matching payment that is requested under this subpart; and

(3) Certify that the eligible material for which a payment may be issued according to §1450.106 has been harvested according to a conservation plan, forest stewardship plan, or equivalent plan, and, if woody eligible material collected and harvested on land other than contract acreage, are byproducts